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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,347	07/02/2001	Tao Chen	010401	2438

23696 7590 06/22/2004

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

LAMARRE, GUY J

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,347

Applicant(s)

CHEN ET AL.

Examiner

Guy J. Lamarre, P.E.

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/2/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

FINAL OFFICE ACTION

1. This office action is in response to Applicants' Amendment of 04 April 2004.
- 1.1 **Claims 1-4, 10 and 12** are amended. **Claims 1-18** remain pending.
- 1.2 The prior art rejections of record to the Claims are maintained in response to Applicants' Amendment.

Response to Arguments

2. Applicants' arguments of 04 April 2004 have been fully considered, but they are not persuasive.

REMARKS

3. In response to **Claims 1 and 10**, Applicants, on pages 6-7, allege that the prior art of record does not teach "identifying the wireless device."

Examiner disagrees as Applicants concede, on page 7 at 1st para., that **GONNO** teaches '...totaling the retransmission requests from the receivers.'

Examiner notes that **GONNO's** broadcast system, during a training session, knows how many receivers are 'on board,' and has means to uniquely identify frames as they are being broadcast. And equivalently, when a frame is lost, there is no ambiguity as to what frame is to be rebroadcast since all frames are uniquely identified. Thus, plural requests for retransmission of a same frame from plural receivers will be treated as a request to retransmit only that unique frame identified as lost. So retransmission totaling means does not increase as suggested by Applicants.

Therefore, the **Examiner** maintains that the prior art of record renders unpatentable **Claims 1, 10** and the claims depending thereon, i.e., the prior art of record anticipates **Claims 1-18**.

Claim Rejections - 35 USC ' 102

3.1 Claims 1-18 are rejected under 35 U.S.C. 102 (b) as being anticipated by GONNO (EP Patent No. 000876023; 4 NOV. 1998).

As per Claims 1 and 10, Gonno discloses an equivalent means for providing frame re-transmission in a broadcast communication system, comprising: a receiver (col. 4 line 9 and col. 5 lines 9-10) for receiving a message indicative of a frame received in error by a wireless communication device, said message including an identification of said frame; a memory (col. 4 line 27; (e.g., if an error is detected at the receiver, a NAK or repeat request is issued therefrom to the transmitter so that the frame marked as errored is to be retransmitted, said receiver/transmitter having storage means to hold/process such request.)) for storing a predetermined number for determining when to re-transmit said frame; and a processor (col. 4 line 11) for determining a cumulative number of times that said frame was received in error and for ordering a re-transmission of said frame if said cumulative number of times is greater than said predetermined number (e.g., if predetermined number is zero, there is no frame retransmission, otherwise, the frame is retransmitted).

As per Claims 2 and 11, Gonno discloses an equivalent means wherein: said message further comprises a wireless communication device identification (col. 4 line 9 and col. 5 lines 9-10 or means to identify messages emanating from one or plural receivers); said memory (col. 4 line 27) is further for storing said wireless communication device identification; said processor is further for determining a cumulative number of times that said frame was received in error, said cumulative number increased each time that said frame is identified by subsequent messages from other wireless communication devices.

As per Claims 3 and 13, Gonno discloses an equivalent means wherein said message comprises a negative acknowledgement message (NAK) (col. 4 line 35 and col. 5 lines 15-17,

col. 6 line 52).

As per Claim 4, Gonno discloses an equivalent means wherein said identification comprises a frame number (col. 4 line 9 and col. 5 lines 9-10).

As per Claim 5, Gonno discloses, in col. 4 line 11 and col. 12 line 52, an equivalent means wherein said predetermined number comprises a fixed number.

As per Claim 6, Gonno discloses, in col. 4 line 11, an equivalent means wherein, said predetermined number comprises a variable number.

As per Claims 7, 12 and 14, Gonno discloses, in col. 11 line 1, an equivalent means wherein said predetermined number varies in accordance with a latency associated with transmitting new data frames to said wireless communication device.

As per Claims 8, 15, 16 and 18, Gonno discloses, in col. 11 lines 1 and 11, an equivalent means further comprising a transmit buffer, wherein said latency is determined by counting the number of data frames waiting to be transmitted in said transmit buffer.

As per Claims 9 and 17, Gonno discloses, in col. 11 line 25 et seq., an equivalent means wherein said predetermined number varies in accordance with the number of wireless communication devices currently receiving a broadcast transmission.

Conclusion

4. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action

4.1 Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (703) 305-0755. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached on (703) 305-9595.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E.
Primary Examiner
6/17/04
